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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

In the Matter of:

RAILROAD COST RECOVERY
PROCEDURES - PRODUCTIVITY
ADJUSTMENT

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) Ex Parte No. 290 (Sub-No 4)
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COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

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William L. Slover
C. Michael Loftus
Robert D. Rosenberg
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D C 20036
(202) 347-7170

Its Attorneys

Dated March 13, 2008

In the Matter of:

Ex Parte No 290 (Sub-No. 4)

In response to the decision that the Surface Transportation Board (“STB” or “Board”) served in the above-captioned proceeding on February 22, 2008, the Western Coal Traffic League (“WCTL”)¹ submits the following comments concerning the STB’s calculation of 2006 productivity for use in the 2002-2006 five-year average growth rate for calculating the productivity adjustment to the Rail Cost Adjustment Factor

WCTL has replicated the STB's value for the input index for 2006 from publicly available information and concurs in that aspect of the STB's calculation.

'WCTL is a voluntary association, whose regular membership consists entirely of utility shippers of coal mined west of the Mississippi River that is transported by rail. WCTL members presently ship and receive in excess of 140 million tons of coal by rail each year. WCTL's members are Alliant Energy, Ameren Energy Fuels and Services, Arizona Electric Power Cooperative, Inc., Austin Energy (City of Austin, Texas), CLECO Corporation, CPS Energy, Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Texas Municipal Power Agency, Western Farmers Electric Cooperative, Western Fuels Association, Inc., Wisconsin Public Service Corporation, and Xcel Energy.

However, WCTL is unable to concur in the STB's calculation of the output index for 2006. WCTL views the STB's calculation of the 0.6% decline as suspect in view of the 4.4% increase in Class I railroad ton-miles in 2006 compared to 2005.

The productivity output calculation does not directly reflect the change in total ton-miles, but instead measures output as reflected in the waybill sample evaluated under a 189-cell matrix that tracks "such characteristics as length of haul, shipment size, and car type." *Railroad Cost Recovery Procedures - Productivity Adjustment*, 51 C.C.2d 434, 461 (1989). Output reflects the "year-to-year change in ton-miles" for each cell, and the cell values are weighted together "based on each segment's share of revenue within the waybill sample." *Id.* The resulting weighted average is then grossed-up to reflect the total number of total ton-miles. In other words, the traffic is distributed across the matrix to determine the relative composition of traffic, and the relative composition is then adjusted to reflect the change in total ton-miles.

It is then theoretically possible that output could decrease by 0.6% despite a 4.4% increase in total ton-miles. Specifically, traffic could shift from cells representing high output to cells representing low output to such an extent that the decrease in the value of output measured by the matrix would more than offset the increase in total ton-miles. However, WCTL believes that the likelihood of such a change is very small, particularly as the change in total ton-miles has served as a reasonable surrogate for the change in total output in past years. The 5% differential thus appears to be too large to be explained by a shift in the type of output.

Because of the apparent discrepancy posed by the STB's output index calculation, WCTL's counsel and consultant requested that the STB provide additional workpapers to permit further review of the STB's calculation, particularly as the STB's original workpapers provided adequate information on the input calculation (which can be derived from publicly available data in any event), but virtually nothing on the output calculation. *e g.* not even a printout of the values for the cells in the output matrix. However, WCTL never received additional information from the STB

Without additional information, WCTL is unable to present definitive evidence as to the existence of error or the nature of the potential error. Notwithstanding this substantial limitation, WCTL has identified several possible sources of inaccuracy that it wishes to note for the record and for further consideration by the STB

First, the STB's analysis (presumably based on the unmasked waybill sample) may be inaccurate because some fuel surcharge revenues were reported as miscellaneous revenues and not as revenues associated with individual movements. On December 17, 2007, the STB served a "Clarification" in Ex Parte No. 385 (Sub-No. 6). *Waybill Sample*, instructing the railroads to report fuel surcharge revenues in the "Freight Revenue" waybill field starting for 2007. The Government Accountability Office previously noted this problem in reporting revenue in GAO-07-291R, *Freight Railroads Updated Information on Rates and Other Industry Trends* (Aug. 15, 2007), at 6. Failing to include all of the revenue could conceivably have a disproportionate impact on certain output cells and not others, thereby distorting the weight afforded certain cells and biasing the output index calculation

A second possibility is an error in grossing up the 2006 output figure to reflect the total increase in ton-miles in 2006 relative to 2005. This error has occurred before (albeit many years ago), and while unlikely, it could explain the apparent disparity

A third possibility is that no traffic fell into a given output matrix cell in 2005 or some earlier year. WCTL understands that the STB's output measurement program works by dividing output in a given cell in a given year by the corresponding value in the prior year and that the STB's program analyzes multiple years at a time. Accordingly, if there was no traffic in a given year, the calculation of output for the following year could involve division by zero, which could introduce distortion

In summary, the STB's calculation of the 2006 output index value is suspect, and WCTL has been unable to obtain additional information that would support the calculation. The STB should review its calculations and either correct the result or provide sufficient documentation to confirm the accuracy of the suspect calculation.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

William L. Slover
/s/ Robert D. Rosenberg
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated March 13, 2008

Its Attorneys

Certificate of Service

I hereby certify that today, March 13, 2008, copies of the foregoing Comments of the Western Coal Traffic League have been served on all parties of record in this proceeding by first class mail, postage prepaid, in accordance with the Board's Rules of Practice

/s/ Robert D. Rosenberg